
SENATE BILL 5962

State of Washington

59th Legislature

2005 Regular Session

By Senators Haugen, Schoesler, Rasmussen, Morton, Shin and Delvin

Read first time 02/16/2005. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to customary agricultural practices; amending RCW
2 70.94.640; adding a new section to chapter 7.48 RCW; and adding a new
3 section to chapter 64.06 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.48 RCW
6 to read as follows:

7 (1) In any nuisance action brought in which agricultural activity
8 on a farm is alleged to be a nuisance, if the defendant farm prevails,
9 the farm may recover from the plaintiff three times the actual amount
10 of costs and expenses determined by the court to have been reasonably
11 incurred by the farm in connection with the defense of the action,
12 including lost revenue and the replacement value of crops or livestock
13 damaged or unable to be harvested or sold as a result of the complaint,
14 and reasonable and actual attorneys' fees.

15 (2) The court may order a complainant who brings an unverified
16 complaint against a farm to pay the investigating agency the full costs
17 of investigating the unverified complaint. As used in this section,
18 "unverified complaint" means a complaint in response to which the

1 investigating agency or trial court determines that the farm is in
2 conformity with all applicable laws and rules.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.06 RCW
4 to read as follows:

5 A seller of real property located within one mile of the property
6 boundary of a farm or farm operation shall make available to the buyer
7 the following statement: "This notice is to inform prospective
8 residents that the real property they are about to acquire lies within
9 one mile of the property boundary of a farm. The farm may generate
10 usual and ordinary noise, dust, odors, and other associated conditions,
11 and these practices are protected by the Washington right to farm act."

12 **Sec. 3.** RCW 70.94.640 and 1981 c 297 s 30 are each amended to read
13 as follows:

14 (1) Odors or dust caused by agricultural activity consistent with
15 good agricultural practices on agricultural land are exempt from the
16 requirements of this chapter unless they have a substantial adverse
17 effect on public health. In determining whether agricultural activity
18 is consistent with good agricultural practices, the department of
19 ecology or board of any authority shall consult with a recognized
20 third-party expert in the activity prior to issuing any notice of
21 violation.

22 (2) Any notice of violation issued under this chapter pertaining to
23 odors or dust caused by agricultural activity shall include a statement
24 as to why the activity is inconsistent with good agricultural
25 practices, or a statement that the odors or dust have substantial
26 adverse effect on public health.

27 (3) In any appeal to the pollution control hearings board or any
28 judicial appeal, the agency issuing a final order pertaining to odors
29 or dust caused by agricultural activity shall prove the activity is
30 inconsistent with good agricultural practices or that the odors or dust
31 have a substantial adverse impact on public health.

32 (4) If a person engaged in agricultural activity on a contiguous
33 piece of agricultural land sells or has sold a portion of that land for
34 residential purposes, the exemption of this section shall not apply.

35 (5) As used in this section:

1 (a) "Agricultural activity" means the growing, raising, or
2 production of horticultural or viticultural crops, berries, poultry,
3 livestock, grain, mint, hay, and dairy products.

4 (b) "Good agricultural practices" means economically feasible
5 practices which are customary among or appropriate to farms and ranches
6 of a similar nature in the local area.

7 (c) "Agricultural land" means at least five acres of land devoted
8 primarily to the commercial production of livestock or agricultural
9 commodities.

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